

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
David John Zanzig)
For: TIRE WITH CONGIFURED RUBBER) Confirmation No.: 9102
SIDEWALL DESIGNED TO BE GROUND-) Docket No.: DN2001193
CONTACTING REINFORCED WITH) Art Unit: 1714
CARBON BLACK, STARCH AND SILICA) Examiner: Edward J. Cain
Serial No.: 09/975,167)
Filed: October 11, 2001)

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIAE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Dear Sir:

Petitioner, The Goodyear Tire & Rubber Company, is the owner of 100 percent interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. Sections 154 to 156 and 173, as presently shortened by any terminal disclaimer, of its commonly owned Patent No. 6,761,198 B2, issued July 13, 2004, of which Petitioner is the owner of 100 percent interest therein as evidenced by an Assignment of Patent No. 6,761,198 recorded in the U.S. Patent Office on May 5, 2004, at Reel 014600, Frame 0357. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for ⁰⁷¹⁷⁵¹⁶ and during such period that it and the said patents are commonly owned. This agreement runs with ⁰⁷¹⁷⁵¹⁶ any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

For submissions on behalf of The Goodyear Tire & Rubber Company, the undersigned
are empowered to act on behalf of The Goodyear Tire & Rubber Company.

09/10/2004 FFAR
01 EC-1814

Remarks

Claims 1 through 20 are now pending.

The Rejection

The following U.S. patent publications have been relied upon to reject the Applicant's claims:

6,761,198 (formerly application SN 09/780,548)	Zanzig, et al (Zanzig)
5,672,639	Corvasce, et al (Corvasce)

The Applicant's original claims 1 through 20 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1 through 18 of co-pending Application No. 09/780,548, now U.S. Patent No. 6,761,198, in view of Corvasce.

It is assumed herein that the cited Corvasce reference is the above identified U.S. Patent No. 5,672,639.

A reconsideration of the rejection of the Applicant's claims is requested in view of the Terminal Disclaimer submitted herewith as well as comments herein.

Terminal Disclaimer

A Terminal Disclaimer is submitted herewith to obviate the judicially created doctrine of obviousness-type double patenting of the Applicant's claims in view of U.S. Patent No. 6,761,198 (formerly application SN 09/780,548).

Authorization is given to charge the fee for the Terminal Disclaimer in accordance with 37 C.F.R. Section 1.20(d) in the amount of \$110.00, or any other fees, to our deposit account No. 07-1725.

Discussion

It is important to appreciate that the invention of the Applicant's claims relates to a combination of both a tire structural aspect and a compositional aspect.

The structural aspect of the Applicant's claims relates to a combination of a lug and

The cited Corvasce reference itself is directed to use of a starch/plasticizer composite in a rubber composition of a component of a tire which may be used in combination with carbon black and/or silica reinforcement. However, Corvasce does not teach or suggest any tire structural feature requiring the presence of any lug and groove configured tire sidewall portion and certainly not any the use of any starch/plasticizer composite in a lug and groove configured portion of a tire sidewall.

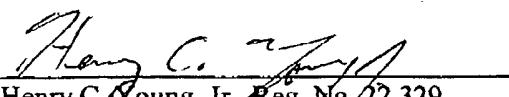
It is contended that the presence of the Corvasce reference, whether or not taken in view of the Zanzig reference, would not teach one to provide an inclusion of a starch/plasticizer composite in a lug and groove configured tire sidewall portion without a substantial hindsight taken in full view of the Applicant's own specification and claims and without a significant reconstruction of both the Zanzig and Corvasce references themselves.

Accordingly, it is contended that a rejection of the Applicant claims in view of a combination of the Zanzig reference (which is the subject of the Terminal Disclaimer submitted herewith) and the Corvasce reference does not make out a prima facie case of obviousness of the Applicant's claims in the sense of 35 U.S.C. Section 103(a).

Conclusion

It is contended that the Applicant are patentably distinct from the combination of the cited Zanzig (the subject of the aforesaid Terminal Disclaimer submitted herewith) and Corvasce patent references.

Respectfully submitted,


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